THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.13116 OF 2006

ORDER:

The petitioner seeks a Writ of Certiorari to call for the records relating to the proceedings of the 1st respondent-Joint Collector & Additional District Magistrate, Hyderabad district, dated 31.5.2006, and to quash the same, being arbitrary, illegal and in violation of the principles of natural justice.

The facts, in brief, are as under:

The petitioner claims to have purchased an extent of 2539 sq. yards, forming part of the land in Sy.No.129/40 (old) and 286 (new), situated at Banjara Hills, Hyderabad, under a registered document dated 21.11.1974, executed by one B.V.N.V. Narasimha Rao.

On an application made by the Director of the petitioner Company, the 1st respondent vide proceedings dated 18-7-2002 issued a No Objection Certificate (NOC) in respect of the premises No.8-2-675/A, Sy.No.129/40 co-related to TS.No.12/p Block-U, Ward No.11 of Shaik Pet Village, at Road No.13, Banjara Hills, Hyderabad.

While so, the 2nd respondent herein along with others made an application for No Objection Certificate in respect of premises No.8-2-675 forming part of an extent of 5,686 sq. yards situated at Road No.13, Banjara Hills. Pursuant thereto, a notice, dated 18-10-2005 was issued to the petitioner to furnish the documents in support of its claim in respect of the property in question. In response to the same, the petitioner furnished all the documents in support of its title and possession. Subsequently, the 1st respondent called for the plans from the office of the Sub-Registrar in respect of the documents submitted by the petitioner as well as the 2nd respondent. That apart, the matter was also referred to the Deputy Director, Survey & Land Records, Hyderabad and on the basis of the report submitted by the

Deputy Director, a show-cause notice dated 18-3-2006 was issued calling upon the petitioner to show-cause as to why the No Objection Certificate issued in favour of the petitioner should not be cancelled. In response to the same, the petitioner submitted a reply on 17-4-2006 and sought for personal hearing. Accordingly, the petitioner was afforded an opportunity and thereafter the 1st respondent passed the impugned order dated 31-5-2006 holding that the petitioner failed to offer any valid explanation nor any documents were produced to prove that the land in question belongs to the petitioner. Accordingly, the No Objection Certificate, dated 18-7-2002 issued in favour of the petitioner was recalled and cancelled.

Aggrieved by the same, this writ petition is filed contending inter alia that the conclusion of the 1st respondent is erroneous since he failed to look into the documents on the basis of which the report was submitted by the Deputy Director of Survey & Land Records. It is also contended that the 1st respondent ought to have called for the entire revenue record in respect of old Sy.No.129/40 and new Sy.No.286 and without looking into the said revenue record, the 1st respondent committed an error in concluding that the petitioner did not produce any documents to prove that the land in question belongs to them. It is also contended that whereas the title of the petitioner flows through registered sale deed of the year 1962, the 2nd respondent merely relied upon oral gift deeds and therefore the 1st respondent ought to have directed the 2nd respondent to obtain a declaration of title and possession from a competent Civil Court.

I have heard the learned Counsel for the petitioner, learned Government Pleader appearing for the 1st respondent as well as the learned Counsel appearing for the 2nd respondent; and perused the material on record.

At the outset, it is to be noted that this Court while exercising the jurisdiction under Article 226 of the Constitution of India does not

act as an appellate authority and re-appreciate the evidence on record.

The law is well settled that the scope of judicial review, particularly a Writ of Certiorari is limited and would be exercised only to correct errors of jurisdiction or to correct errors of law apparent on the face of the record. This Court would interfere by issuing a Writ of Certiorari only where it is found that the order was passed by the Court or Tribunal in violation of principles of natural justice or where the findings are not based on any evidence.

In the case on hand, it is clear from the version of the petitioner itself that ample opportunity was provided to the petitioner to explain its case, and all the relevant material, on the basis of which the show cause notice was issued, was furnished to it. As a matter of fact, the material on record shows that both the parties were also heard in person. Moreover, on a request made by the petitioner, the matter was posted to 11.5.2006 for written arguments. However, on 11.5.2006, neither the petitioner, nor its counsel, were present. In the circumstances, the impugned order came to be passed on merits assigning reasons. Since, apparently, the petitioner was afforded ample opportunity to put forth its version, I am unable to hold that the impugned order was in violation of the principles of natural justice. I am also unable to hold that the conclusions reached by the 1^{s} respondent, are not based on evidence. The 1st respondent had not only called for the relevant plans from the Office of the Sub-Registrar, Banjara Hills, Hyderabad, but the matter was also referred to the Deputy Director, Survey and Land Records, Hyderabad, and having considered the documents produced by both the parties to substantiate their respective title, it was concluded that NOC dated 18.7.2002, was wrong. It is not the case of the petitioner that the said order is without jurisdiction. In the circumstances, I do not find any justifiable reason to issue a writ of certiorari as prayed for.

However, the learned counsel for the petitioner submitted that the

observations made by the 1st respondent, particularly, the conclusion that the writ petitioner failed to offer any valid explanation to prove that the land in question belongs to the petitioner, would amount to deciding the title, which he is not competent to do.

It needs no reiteration that No Objection Certificate under no circumstances could be taken as a document evidencing title to the property. As a matter of fact, the 1st respondent while granting the NOC in favour of the petitioner vide memo dated 18.7.2002, made it clear that the said NOC would not confer any right, title over the land in question. Hence, the apprehension of the petitioner is without any basis. At any rate, to avoid any controversy, it is made clear that the observations/findings recorded by the 1st respondent in the impugned order shall not be understood to have declaring/conferring title over the land in question in favour of either of the parties.

Subject to the above clarification, the Writ Petition is dismissed. No costs.

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(G. ROHINI,)

Dated: 12-09-2006
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.13116 OF 2006

12th September, 2006.

Between:

M/s Mysore Fertilizers Company,
Proprietor- M/s M.F.C. Industries Ltd.,
No.338, Thambuchetty Street, Chennai,
Tamil Nadu, represented by its G.P.A. Holder
Ms. Roopa Reddy. .. Petitioner.

And

The Joint Collector & Additional District Magistrate,

Hyderabad district and another. .. Respondent.